

September 25, 2002

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street S.W.  
Washington, D.C. 20554

Re: RM No. 10522  
Reply Comments to NTCA Petition

Dear Ms. Dortch:

Attached are the Reply Comments of the Regulatory Commission of Alaska in response to the Order (DA 02-2214) in RM No. 10522 concerning the National Telecommunications Cooperative Association petition for expedited rulemaking.

Sincerely,  
REGULATORY COMMISSION OF ALASKA

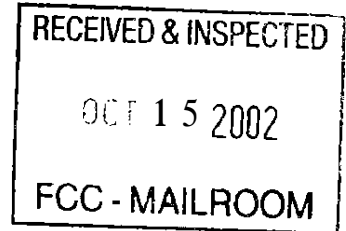
Will Abbott, Commissioner

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10/15/02

A handwritten date "10/15/02" is written in the bottom right area of the page.

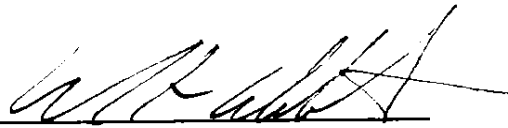
Before the  
Federal Communications Commission  
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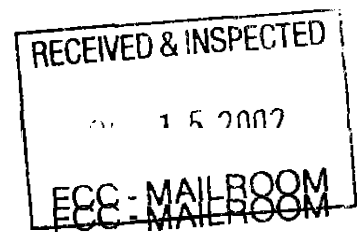
In the Matter of )  
 )  
Petition for Rulemaking to Define ) RM No. 10522  
"Captured" and "New" Subscriber )  
Lines for Purposes of Receiving )  
Universal Service Support Pursuant to )  
47 C.F.R. § 54.307 et seq. )

Reply Comments of the  
Regulatory Commission of Alaska

Date: September 25, 2002

  
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Will Abbott, Commissioner  
Regulatory Commission of Alaska  
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Anchorage, Alaska 99501  
(907) 276-6222/ fax (907) 276-0160

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**



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"Captured" and "New" Subscriber	)	
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**REPLY COMMENTS OF THE  
REGULATORY COMMISSION OF ALASKA**

The Regulatory Commission of Alaska (RCA) welcomes the opportunity to respond to the Public Notice (DA 02-2214) seeking comment on the Petition for Expedited Rulemaking (Petition) filed by the National Telecommunications Cooperative Association (NTCA). In its Petition, the NTCA requests new definitions be created for the terms "captured" and "new" subscriber in Section 54.307 of the rules of the Federal Communications Commission (Commission) as well as other changes affecting the level of universal service support paid to competitive carriers.

**1. The Commission should carefully evaluate the complex portability issues NTCA identified.**

We believe NTCA has identified key issues on fund portability which require further study and possible action by the Commission in the near future. However, we disagree with NTCA concerning the best approach to achieve

immediate action. We concur with those commentators' who suggest the Commission should not immediately grant the relief sought by NTCA.

Many of the key issues raised by NTCA are not new and have been debated for years. For example, the Rural Task Force identified unresolved portability questions about such terms as "formerly served", "captured", and "new lines" two years ago when it released its White Paper 5.<sup>2</sup> It is not apparent to us why immediate action on these long-term issues outweighs the benefits of a reasoned approach that considers all related portability issues at one time.

One of the primary arguments raised in support of immediate action is the recent growth in universal service funding received by competitive Eligible Telecommunications Carriers (CETCs).<sup>3</sup> While the CETC funding may have grown in recent years, it remains that the vast majority of the annual \$5 Billion dollars in universal service support is paid to NTCA members and other rural ILECs, and not CETCs.<sup>4</sup> We believe WUTC correctly notes that whatever concerns NTCA may have about the total size of the fund, the concern would exist even if competitors received no support at all. In conclusion, while we believe that unplanned or undue

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<sup>1</sup> See comments of the Washington Utilities and Transportation Commission (WUTC) filed September 23, 2002, and of the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), filed September 9, 2002, in RM-10522.

<sup>2</sup> competition and Universal Service, Rural Task Force White Paper 5, September 2000, at 16-17.

<sup>3</sup> The WUTC reported that CETCs collected about \$76 M in high cost support in 2002. WUTC comments at 9.

<sup>4</sup> WUTC comments at 9.

growth in the universal service fund is a critical issue, the Commission should still take the time it needs to fully and carefully consider portability before taking action.

2. **Portability Issues Should be Addressed Comprehensively and Not Piecemeal**

While we believe the Commission's portability rules may require review and possible revision, we disagree that the Commission should attempt to make such changes in a "piecemeal" manner as proposed by NTCA. How to provide fair fund portability is an extremely complex question that has been debated for years. Even minor changes in the portability rules have the potential to significantly affect competitors, incumbents, market conditions, and infrastructure development. It would create more harm in the long run if the Commission were to adopt short-term changes that were not sustainable when all issues of portability were considered.

We agree with OPASTCO that the interrelationship between the specific definitional questions posed by NTCA and the myriad of other issues of funding portability require that these issues be considered together. Stakeholders and the Commission should have an opportunity to consider all issues associated with fund portability, and not just those proposed by NTCA. Now is the time for the Commission to consider the issues raised by NTCA, but only in context of an overall review of all portability issues

3. **Portability Issues Should Be Expeditiously Referred to the Universal Service Joint Board.**

The issue of portability has the potential to affect state ratepayers, competitive carriers, infrastructure development, and levels of universal service surcharges. All of these issues are of key interest to the states. Joint Board

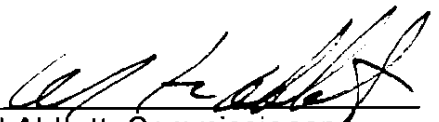
involvement will assist the Commission in ensuring federal policies coordinate well with existing state conditions.

Nor is it clear how the Commission can fully disassociate the portability issue from the methodology used to calculate payments to the incumbents. For example, the policies on which CETC and ILEC lines should be "eligible" for funding may be interrelated with how support should be calculated and what services are supported. The Joint Board's involvement would assist the Commission to develop a comprehensive portability policy that works well with the Commission's overall universal service program. We therefore recommend that the Commission refer issues of fund portability to the Universal Service Joint Board as soon as possible.

### **Conclusion**

We recognize the need to expeditiously review portability issues, including those raised in the NTCA Petition; however, we oppose the NTCA Petition as we believe it inappropriate to deal with portability issues on a piecemeal basis. We believe that the Commission should review its portability rules as soon as possible, but it should do so comprehensively through referral to the Universal Service Joint Board

RESPECTFULLY SUBMITTED this 25th day of September, 2002.

  
Will Abbott, Commissioner  
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907-276-6222